

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

SNOWBALL CAPITAL APPRECIATION )  
FUND, LP, Derivatively and )  
on Behalf of Bed Bath & Beyond, Inc. )

Plaintiff, )

vs. )

CIVIL ACTION NO.  
06-cv-04962(FSH) (PS)

WARREN EISENBERG, LEONARD )  
FEINSTEIN, VICTORIA A. MORRISON, )  
STANLEY R. BARSHAY, ROBERT KAPLAN, )  
DEAN S. ADLER, JORDAN HELLER, KLAUS )  
EPPLER, FRAN STOLLER, STEVEN H. )  
TEMARES, ARTHUR STARK, MATTHEW )  
FIORILLI, EUGENE A. CASTAGNA, )

Defendants, )

-and- )

BED BATH & BEYOND, INC., a )  
New York Corporation )

Nominal Defendant. )

**NOTICE OF DISMISSAL OF ACTION BY PLAINTIFF**

PLEASE TAKE NOTICE that Plaintiff, Snowball Capital Appreciation Fund, ("Snowball"), by and through its undersigned attorneys, hereby files this Notice of Dismissal of the above-captioned action. On October 17, 2006, Snowball filed this action against certain officers and directors of Bed Bath & Beyond, Inc. Whereas these defendants have not served an

answer or filed a motion for summary judgment, pursuant to Rule 41(a) of the Federal Rules of Civil Procedure, plaintiff Snowball voluntarily dismisses this action.

Dated: February 20, 2007

Respectfully submitted,

KIRBY MCINERNEY & SQUIRE, LLP



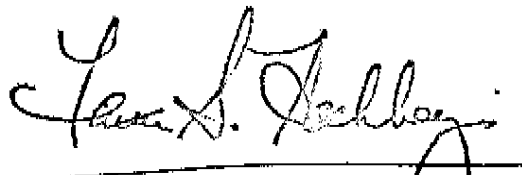
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Attorneys for Plaintiff  
Snowball Capital Appreciation Fund

SO ORDERED:

  
February 21, 2007